

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD SPENCE,

No. 2:21-cv-0692 AC P

Plaintiff,

ORDER

v.

B. JOHNSON, et al.,

Defendants.

Before this court are plaintiff's motion for judgment and motion for a protective order. ECF Nos. 31, 32. Defendants have filed a response to plaintiff's motion for a protective order. ECF No. 32. For the reasons stated below, both motions will be denied.

I. MOTION FOR JUDGMENT

In his motion for judgment, plaintiff claims in part that a settlement agreement has been entered into by the parties in this case. ECF No. 30 at 1. The remainder of the motion is a meandering and confusing narrative that appears to be related to past property claims filed by plaintiff in prison. Id. at 2-7. The motion provides no support for plaintiff's claim that this matter has been settled, nor does it specifically request that any particular action be taken by the court. See generally ECF No. 30.

A review of the docket indicates that on September 27, 2022, defendants filed a motion to opt out of the Post-Screening ADR Project based on their determination that a settlement

1 conference at this stage of the proceedings would be a waste of resources and would not be  
2 fruitful. ECF No. 25 at 2. As a result, this case is currently in the discovery phase. See ECF No.  
3 29 (court's discovery and scheduling order). Accordingly, plaintiff's motion for judgment will be  
4 denied.

## II. MOTION FOR PROTECTIVE ORDER

In his motion for a protective order, plaintiff asks the court to strike defendants' discovery requests pursuant to Federal Rule of Civil Procedure 26. See generally ECF No. 31 (plaintiff citing to various parts of Rule 26). He contends that a protective order is proper because defendants' first set of requests for admissions was filed prior their responsive pleading and the court's scheduling order. Id. at 1.

11 Defendants counter that the motion should be denied as moot because defendant Johnson  
12 has withdrawn the requests in question, and he re-served them on plaintiff on November 4, 2022.  
13 ECF No. 32 at 2. Defendants note that this re-service date is after the court’s October 17, 2022,  
14 issuance of the discovery and scheduling order. *Id.* Because service of defendants’ discovery  
15 requests is no longer premature, plaintiff’s motion to strike defendants’ first set of requests for  
16 admissions will be denied as moot.

17 || Accordingly, IT IS HEREBY ORDERED that:

- 18           1. Plaintiff's motion for judgment (ECF No. 30) is DENIED; and  
19           2. Plaintiff's motion for a protective order (ECF No. 31) is DENIED.

20 || DATED: November 15, 2022

Allison Claire  
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE